

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WEBSTER ALMOND,

Defendant-Appellant.

UNPUBLISHED
February 28, 2006

No. 258076
Oakland Circuit Court
LC No. 04-196846-FH

Before: Borrello, P.J., and Sawyer and Fitzgerald, JJ.

PER CURIAM.

Defendant appeals as of right from jury convictions of felon in possession of a firearm, MCL 750.224f, possession of a firearm during the commission of a felony, MCL 750.227b, possession of less than twenty-five grams of cocaine, MCL 333.7403(2)(a)(v), and possession of marijuana, MCL 333.7403(2)(d). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant's sole claim on appeal is that the trial court erred in denying his motion to suppress the evidence. We review a trial court's factual findings at a suppression hearing for clear error, and review the ultimate ruling on a motion to suppress de novo. *People v Davis*, 250 Mich App 357, 362; 649 NW2d 94 (2002). The trial court's factual findings are clearly erroneous if, after review of the record, we are left with a definite and firm conviction that a mistake has been made. *People v Givans*, 227 Mich App 113, 119; 575 NW2d 84 (1997).

"In order to effectuate a valid traffic stop, a police officer must have an articulable and reasonable suspicion that a vehicle or one of its occupants is subject to seizure for a violation of law." *People v Williams*, 236 Mich App 610, 612; 601 NW2d 138 (1999). The motor vehicle act prohibits a person from driving a vehicle with "[a] dangling ornament or other suspended object that obstructs the vision of the driver of the vehicle, except as authorized by law." MCL 257.709(1)(c). Violation of this statute constitutes an equipment violation and is deemed a civil infraction. MCL 257.683; *People v Pitts*, 222 Mich App 260, 264; 564 NW2d 93 (1997). An actual violation of the vehicle code need not be proved; all that is required is that the officer had a reasonable suspicion that a violation may have occurred. *People v Fisher*, 463 Mich 881-882; 617 NW2d 37 (2000) (Corrigan, J., concurring).

The evidence showed that defendant had a prism of some sort hanging from the rearview mirror of his car. The prism itself or the refracted light it emitted could potentially interfere with

or obstruct a driver's vision. While the police could not state with certainty that the prism was in fact obstructing defendant's vision, they had a reasonable suspicion for believing that it was. Therefore, the stop was lawful.

Defendant contends that MCL 257.709(1)(c) should be declared unconstitutionally vague and that its unconstitutionality should retroactively invalidate the initial stop. We disagree. Michigan has now recognized the good-faith exception to the exclusionary rule. *People v Goldston*, 470 Mich 523, 543; 682 NW2d 479 (2004). The purpose of the exclusionary rule is to "deter[] official misconduct by removing incentives to engage in unreasonable searches and seizures." *Id.* at 529. Statutes are presumed to be constitutional. *People v Dewald*, 267 Mich App 365, 382; 705 NW2d 167 (2005). The police are generally not required to anticipate that a law whose validity has not been challenged will later be declared unconstitutional. *Michigan v DeFillippo*, 443 US 31, 37-38; 99 S Ct 2627; 61 L Ed 2d 343 (1979). "To deter police from enforcing a presumptively valid statute was never remotely in the contemplation of even the most zealous advocate of the exclusionary rule." *Id.* at 38 n 3. Therefore, under the good-faith exception to the exclusionary rule, evidence obtained as a result of a traffic stop for a suspected statutory violation will not be suppressed despite a subsequent constitutional challenge to the statute. *Feland v State*, 355 Ark 573, 575-577; 142 SW3d 631 (2004).

Defendant next contends that even if the police could validly stop him for a suspected violation of MCL 257.709(1)(c), they exceeded the scope of a valid stop by unnecessarily detaining him beyond the time needed to investigate and cite him for the equipment violation. We disagree.

"A traffic stop is reasonable as long as the driver is detained only for the purpose of allowing an officer to ask reasonable questions concerning the violation of law and its context for a reasonable period. The determination whether a traffic stop is reasonable must necessarily take into account the evolving circumstances with which the officer is faced." *People v Williams*, 472 Mich 308, 315; 696 NW2d 636 (2005).

Following the initial stop, defendant was briefly detained for purposes of conducting a LEIN check on him and his vehicle. That was not improper. *Davis, supra* at 367-368. Because there was no evidence justifying further detention, defendant should have been detained "only for the length of time necessary to write a citation." *People v Burrell*, 417 Mich 439, 453; 339 NW2d 403 (1983). However, that does not mean that the officer must issue the citation to the exclusion of all other actions. He may "ask reasonable questions in order to obtain additional information about the underlying offense and the circumstances leading to its commission." *Williams, supra* at 316. The officer sought and received permission to search defendant's car. "An investigatory stop . . . is not so inherently coercive that it renders involuntary consent given during the stop." *Id.* at 318.

Affirmed.

/s/ Stephen L. Borrello
/s/ David H. Sawyer
/s/ E. Thomas Fitzgerald